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15 Additional Counsel on Signature Page

19
20 JULIE KOTOZSKY) CASE NO. CV 07-0713 MJJ
21 Plaintiff,) STIPULATION AND [PROPOSED] ORDER
22 vs.) AMENDING COMPLAINT, STRIKING
23 LONGS DRUG STORES CORPORATION,) PLAINTIFF'S REQUEST FOR INJUNCTIVE
LONGS DRUGS STORES, CALIFORNIA,) RELIEF, AND EXTENDING CERTAIN CASE
INC.) MANAGEMENT DEADLINES.
24
25 Defendants.) Complaint Filed: February 2, 2007

27 Plaintiff Julie Kotozsky, individually and on behalf of all others similarly situated
28 (“Plaintiff”), and defendants Longs Drug Stores Corporation and Longs Drugs Stores,

1 California, Inc., ("Defendants"), by and through their respective counsel, hereby stipulate as
2 follows, and mutually request the Court to approve said Stipulation and enter an order in
3 accordance herewith.

4 **STIPULATION**

5 WHEREAS, Plaintiff filed a Complaint for Damages and Injunctive Relief
6 ("Complaint") in this action on February 2, 2007;

7 WHEREAS, Defendants' response to the Complaint is presently due April 30, 2007;

8 WHEREAS, the Parties' counsel believe certain amendments to the Complaint are
9 necessary and appropriate;

10 WHEREAS, the Parties' counsel further believe that all references to Plaintiff's
11 request for injunctive relief should be stricken from the Complaint;

12 WHEREAS, the Parties' counsel further believe that certain case management
13 deadlines should be extended as specified herein;

14 WHEREAS, the Parties agree that Plaintiff shall file an amended complaint and that
15 Defendant Longs Drug Stores, California, Inc. shall file its response to Plaintiff's amended
16 complaint within ten (10) days after service (via electronic notification) of the amended
17 complaint and pursuant to Fed.R.Civ.P. 5(d) and 6(e);

18 WHEREAS, the Parties further agree that Defendant Longs Drug Stores, California,
19 Inc. shall file an answer to Plaintiff's amended complaint if the Court approves items (3)
20 through (6) herein without modification;

21 WHEREAS, the Parties request that the Initial Case Management Conference
22 presently scheduled in this case for Tuesday, June 5, 2007, at 2:00 PM be rescheduled for
23 Tuesday, June 19, 2007, at 2:00 PM;

24 WHEREAS, the parties recognize that this Court has the power to exercise
25 reasonable control over all proceedings connected with the litigation to ensure the orderly
26 and economic administration of justice;

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1 WHEREAS, the parties further agree that the foregoing requested extensions are not
2 solely for the purposes of delay, but so that the parties may stipulate to amendments to the
3 Complaint in a timely and efficient manner.

4 IT IS HEREBY STIPULATED BY THE PARTIES THROUGH THEIR
5 COUNSEL OF RECORD THAT:

6 1. Plaintiff shall file a notice of dismissal pursuant to Fed.R.Civ.P. 41(a)(1)
7 voluntarily dismissing Defendant Longs Drug Stores Corporation from the case, leaving
8 Longs Drug Stores, California, Inc. as the sole defendant in this case.

9 2. Plaintiff shall file an amended complaint that incorporates the amendments
10 and deletions set forth in items (3) through (6) below.

11 3. Each reference in the Complaint to "Longs Drugs Stores, California, Inc." is
12 hereby changed to "Longs Drug Stores, California, Inc." with "Drug" being singular.

13 4. Each reference to "December 4, 2004" in paragraphs 20, 29, 32, and 33 of
14 the Complaint is hereby changed to "January 1, 2005."

15 5. Each reference to "persons" and "person's" in paragraph 14 of the
16 Complaint is hereby changed, respectively, to "consumers" and "consumer's."

17 6. The following portions of the Complaint – each of which relate to Plaintiff's
18 request for injunctive relief – are hereby stricken:

- 19 • Title of Complaint on page 1 and in the footer for each page of the
20 Complaint, the phrase "AND INJUNCTIVE RELIEF";
- 21 • Paragraph 5, the phrase ", and a permanent injunction enjoining Defendants
22 from continuing their unlawful practice of willfully violating FACTA's
23 provisions intended to safeguard against identity theft and credit and debit
24 card fraud";
- 25 • Paragraph 13, Rule 23(b)(2) from the range "23(b)(1)-23(b)(3) of the
26 Federal Rules of Civil Procedure," such that only "23(b)(1)" and "23(b)(3)"
27 are alleged, on the ground that class certification pursuant to Rule 23(b)(2) is
28 not appropriate where neither injunctive nor declaratory relief is sought;

1 • Paragraph 22, the phrase “(d) Whether Plaintiff and members of CLASS A
2 and CLASS B are entitled to a permanent injunction enjoining Defendants
3 from continuing to engage in their unlawful conduct”;
4 • Paragraph 25, in its entirety;
5 • Paragraph 45, in its entirety; and
6 • Prayer for Relief, paragraph 6, in its entirety.

7 7. Defendant Longs Drug Stores, California, Inc. shall file its response to the
8 amended complaint within ten (10) days after service (via electronic notification) of the
9 amended complaint and pursuant to Fed.R.Civ.P. 5(d) and 6(e).

10 8. Defendant Longs Drug Stores, California, Inc. shall file an answer to the
11 amended complaint if the Court approves items (3) through (6) above without modification.

12 9. The Initial Case Management Conference presently scheduled in this case
13 for Tuesday, June 5, 2007, at 2:00 PM is hereby rescheduled for Tuesday, June 19, 2007, at
14 2:00 PM.

15 10. The Parties shall have up to and including May 29, 2007 to meet and confer
16 regarding initial disclosures, early settlement, ADR process selection, and a discovery plan
17 and to file a Joint ADR Certification with Stipulation to the ADR Process or a Notice of
18 Need for ADR Phone Conference.

19 11. Counsel shall submit a Joint Case Management Statement no later than June
20 8, 2007.

21 12. The Parties shall have up to and including June 12, 2007 to complete initial
22 disclosures or to state any objections to initial disclosures.

23 Dated: April 25, 2007

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Attorneys for Plaintiff Julie Kotozsky

Dated: April 25, 2007

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Longs Drug Stores, California, Inc.

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ATTESTATION

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I attest that signatories Eric A. Grover, Mark R. Thierman, Scott A. Miller and
3 Steven L. Miller have concurred in the filing of this document.
4

5 Dated: April 25, 2007

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11 Attorneys for Defendants
Longs Drug Stores Corporation and
Longs Drug Stores, California, Inc.
12

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ORDER

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15 IT IS SO ORDERED.

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Dated: April 27, 2007


17 The Honorable Martin J. Jenkins
United States District Judge
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